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Paper No. 6

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SEP 12 2002

OFFICE OF PETITIONS

In re Application of
Walton and Warchol
Application No. 10/087,074
Filed: March 1, 2002
For: RESINS ACTING AS WET STRENGTH
AGENTS AND CREPING AIDS AND
PROCESSES FOR PREPARING AND USING
THE SAME

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 19, 2002. Applicant obtained a two-month extension of time to reply. Therefore, the petition is filed timely.

The petition is dismissed.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 1, 2002, without an executed oath or declaration. Accordingly, on April 5, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 19, 2002, applicant filed the present petition, a request for a two-month extension of time, a declaration and power of attorney, a Statement of Facts of Gary A. Samuels, and the requisite fees. In the Statement of Facts, Mr. Samuels states that declaration and assignment papers were prepared and mailed to Cynthia D. Walton, the non-signing inventor, on four separate occasions; however, she has not responded to date.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was presented with the declaration and assignment papers only. Unless Ms. Walton was presented with a copy of the complete application papers, including the specification, claims and drawings, she could not attest that she has reviewed and understands the application papers, and therefore, could not sign the declaration which she was given. See 37 CFR 1.63. Accordingly, applicant failed to show or provide sufficient proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicant should show that a copy of the complete application papers, including the specification, claims and drawings, was presented to the inventor, but that she did not respond to the request that she sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows and to the **Attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Commissioner for Patents
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Washington, D.C. 20231

By FAX: (703) 308-6916
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Telephone inquiries related to this decision may be directed to the undersigned at (703) 308-5589.

Christina Tartera Donnell

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